

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

07 NOV 14 AM '07 MJ 2659

UNITED STATES OF AMERICA,

Magistrate Docket No.

SOUTHERN DISTRICT OF CALIFORNIA

Plaintiff,

By: COMPLAINT FOR VIOLATION OF:

v.

Title 8, U.S.C., Section 1326

Sergio LOPEZ-Virelas,

Deported Alien Found in the

United States

Defendant

)

)

The undersigned complainant, being duly sworn, states:

On or about **November 13, 2007** within the Southern District of California, defendant, **Sergio LOPEZ-Virelas**, an alien, who previously had been excluded, deported and removed from the United States to Mexico, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT

James Trombley

Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 14th DAY OF NOVEMBER,
2007



Nita L. Stormes

UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:**Sergio LOPEZ-Virelas****PROBABLE CAUSE STATEMENT**

On November 13, 2007, at about 3:20 a.m., Border Patrol Agent Karina Ayala was performing line watch duties in the area just east of the Otay Mesa, California, Port-of-Entry. Agent Ayala responded to a report via DHS radio from the infrared thermal imaging scope operator that a group of five suspected illegal-entrant aliens were making their way north across the eastern Otay Mesa, towards the intersection of Alta Road and Otay Mesa Road. This area is about one mile east of the Otay Mesa, California Port-of-Entry and about 1200 yards north of the U.S./Mexico international border. BPA Ayala saw a group of five individuals crouched down in the brush south of the intersection of Alta Road and Otay Mesa Road. These subjects appeared to be attempting to hide. BPA Ayala approached the five individuals, and identified herself as a Border Patrol Agent and proceeded to question all five subjects as to their immigration status. All five persons, including one later identified as the defendant, **Sergio LOPEZ-Virelas** admitted to being undocumented Mexican citizens illegally present in the United States. Agent Ayala placed all five subjects under arrest, and they were transported to the Chula Vista Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on March 16, 2006** through **San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico without any immigration documents allowing him to be or enter the United States legally.